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| 10/536,853   | 05/27/2005  | Pascal Aznar         | 103.001             | 4377             |
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| EXAMINER   |             |                      |                     |                  |
| MARTINEZ, BRITTANY M   |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/536,853

## Applicant(s)

AZNAR, PASCAL

## Examiner

BRITTANY M. MARTINEZ

## Art Unit

4116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Citation to the Specification will be in the following format (S. p. #, l. LL) where # denotes the page number and LL denotes the line number.

### ***Status of Application***

**Claims 1-5** have been examined.

### ***Priority***

The instant application is a national stage entry of PCT/FRO2/04115, filed 11/29/2002.

### ***Specification***

The disclosure is objected to because of the following informalities: It appears as if the instant application was not proofread. *Applicant is strongly encouraged to review the instant application for spelling and grammar errors.*

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

1. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to

Art Unit: 4116

comply with 35 U.S.C. 112, first paragraph. An example of an unclear, inexact or verbose term used in the specification is: irregular-sized.

### ***Abstract***

1. The abstract of the disclosure is objected to because it contains the following informalities: it utilizes improper language and does not commence on a separate sheet.
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

### ***Drawings***

3. The drawings are objected to because FIG. 2 and FIG. 3 necessitate axis labels.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flash chromatography and solid phase extraction (SPE) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. **Claims 4-5** are objected to because of the following informalities: it appears as if “syringes bodies” in the 3<sup>rd</sup> line of **Claims 4-5** should read “syringe bodies.” Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 4-5** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following is an indefinite phrase: “tubes of various shapes and manners” (**Claim 4**, lines 2-3 and **Claim 5**, lines 2-3).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
10. **Claims 1-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over SUPELCO (Bulletin 910) in view of Koh et al. (Journal of Chromatography A).
11. SUPELCO discloses solid phase extraction (SPE) columns containing porous silica gel having 40  $\mu\text{m}$  particles and 60  $\text{\AA}$  pores and manufactured with tubes of various shapes as well as with syringes (SUPELCO, pages 1-3 and 5; FIGS. A and B).
12. SUPELCO does not specifically disclose flash chromatography columns (**Claims 1-5**), spherical and porous silica gel (**Claim 1**), semi-spherical and porous silica gel (**Claim 2**), nor columns containing between 10 mg to 1 kg of spherical and porous silica gel or semi-spherical and porous silica gel (**Claim 3**).
13. In the instant specification, Applicant admits that "Pre-filled flash chromatography columns filled with irregular-sized porous silica gel and with granules of 40-60  $\mu\text{m}$  or 20-40  $\mu\text{m}$ , have been on the market for several years" (S. p. 1, l, 33-34).
14. Koh discloses spherical and porous silica gel (Koh, "Abstract" and "Table 1"), semi-spherical and porous silica gel (Koh, "Conclusion" pages 237-238), and columns containing about 240 g of spherical and porous silica gel or semi-spherical and porous silica gel (Koh, page 225, 1<sup>st</sup> column and "Table 3").
15. Thus, it would have been obvious to one of ordinary skill in the art to modify the SPE columns taught by SUPELCO with the conditions taught by the prior art in order to obtain flash chromatography and SPE columns with high column efficiency (Koh, "3.4 Column efficiency").

### **Conclusion**

1. No claim is allowed.
2. In general, prior art renders the claimed invention obvious.
3. Applicant is required to provide pinpoint citation to the specification (i.e. page and paragraph number) to support any amendments to the claims in all subsequent communication with the examiner. **No new matter will be allowed.**
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brittany M. Martinez whose telephone number is (571) 270-3586. The examiner can normally be reached Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Application/Control Number: 10/536,853

Page 8

Art Unit: 4116

BMM

/Vickie Kim/

Supervisory Patent Examiner, Art Unit 4116